

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD**

**CAL CARTAGE TRANSPORTATION
EXPRESS, LLC**

and

Case 21-CA-247884

**INTERNATIONAL BROTHERHOOD OF
TEAMSTERS**

ORDER¹

The Respondent's motion for summary judgment is denied. The Respondent has failed to establish that there are no genuine issues of material fact warranting a hearing and that it is entitled to judgment as a matter of law. Nor has the Respondent established that summary judgment and dismissal of the complaint is appropriate because the alleged conduct is *de minimis*. This case, involving alleged misclassification of drivers as independent contractors and alleged retaliation against them for seeking to unionize and to clarify their employment status through a state-court lawsuit, is simply not analogous to *American Federation of Musicians Local 76 (Jimmy Wakely Show)*, 202 NLRB 620, 622 (1973) (finding technical violation of the Act not worthy of Board's limited resources, as it was "so insignificant and so largely rendered meaningless by [r]espondent's subsequent conduct") or other cases on which the Respondent relies. In those cases, alleged minor or isolated violations had been repudiated or corrected

¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

without lingering effects on the workforce or derogation of the public interest that the Board serves to vindicate. See *Robinson Freight Lines*, 117 NLRB 1483, 1485 (1957) (stating that Board’s prevention of unfair labor practices “is to be performed in the public interest and not in vindication of private rights”); *Dish Network Service Corp.*, 339 NLRB 1126, 1128 fn. 11 (2003) (declining to find violation *de minimis* where unlawful conduct had not “been substantially remedied or effectively contradicted by later conduct”).

Dated, Washington, D.C., February 24, 2021

LAUREN McFERRAN,	CHAIRMAN
WILLIAM J. EMANUEL,	MEMBER
JOHN F. RING,	MEMBER